

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE) MDL NO. 1456
LITIGATION) Civil Action No. 01-12257-PBS
) Subcategory No. 03-10643
THIS DOCUMENT RELATES TO:)
) Judge Patti B. Saris
<i>The City of New York, et al.</i>)
)
v.)
<i>Abbott Laboratories, Inc., et al.</i>)

**UNOPPOSED MOTION FOR EXTENSION TO FILE OPPOSITION TO
DEFENDANTS' JOINT MOTION TO COMPEL THE PRODUCTION OF
DOCUMENTS**

Pursuant to Local Rule 7.1(b)(2), the New York State Department of Health ("NY DOH") files this unopposed motion for an order extending the time until January 20, 2010, for NY DOH to file an opposition to defendants' joint motion to compel the production of all documents withheld on the basis of the deliberative process privilege [Docket No. 6810, Sub-docket No. 191]. In support of this motion, the NY DOH states as follows:

1. On December 23, 2009, defendants filed their joint motion to compel [Docket No. 6810, Sub-docket No. 191]. Pursuant to Rule 7.1(b)(2), NY DOH's opposition would be due on or before January 6, 2010.

2. On December 30, 2009, James B. McGowan, Assistant Attorney General with the New York Office of Attorney General ("NY AG") wrote to liaison counsel for defendants requesting a two-week extension to file an opposition, so that it would be due no later than January 20, 2010.

3. On January 4, 2010, NY AG had not yet received a response from defendants, and

therefore, wrote to defendants again requesting an extension. Later that same day, liaison counsel for defendants consented to the request for extension.

For the above-stated reasons, NY DOH requests that this motion be granted. A proposed order is attached hereto.

Dated: January 6, 2010

Respectfully submitted:

ANDREW M. CUOMO
Attorney General of the State of New York
Attorney for Subpoenaed Non Party
The New York State Department of Health
The Capitol
Albany, New York 12224-0341

/s/ James B. McGowan
By: James B. McGowan, Esq.
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CERTIFICATE OF SERVICE

I, Kathryn Allen, hereby certify that on the 6th day of January, 2010, I caused a true and correct copy of the above Unopposed Motion for Extension to File Opposition to Defendants' Joint Motion to Compel to be delivered to counsel of record for defendants by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL No. 1456.

Dated: January 6, 2010

/s/ Kathryn B. Allen
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IT IS HEREBY ORDERED THAT the New York State Department of Health (“NY DOH”) shall be granted an extension to January 20, 2010, to file its opposition to defendants’ motion to compel production of all documents which NY DOH has withheld based on the deliberative process privilege.

Dated: January 6, 2010

Hon. Patti B. Saris
United States District Court Judge